

FAKED
8/31/04

LAW OFFICES OF GENE MESH AND ASSOCIATES

31 August 2004

By Fax 721 2139

Thomas W. Breidenstein, Esq.
BARRETT & WEBER
105 East Fourth Street, Suite 500
Cincinnati, OH 45202-4015

Re: OHSL

Dear Mr. Breidenstein:

First, thank you for taking time away from your project to briefly discuss the issues surrounding the motion to compel KMK's production of documents. I am preparing a motion to compel, and I need to clarify this issue as soon as possible. Second, the issue as I see it is that KMK's response and objection no longer complies with the law of the case. (For the purposes of this discussion, I will not debate whether it was previously appropriate to invoke the PSLRA.) Specifically, on page 2 ¶ 2 of your Responses and Objections to the Subpoena served on KMK you state:

Thus, because it is entirely clear that discovery
Is stayed in this matter, as per the Court's several
Rulings and the clear language of the PSLRA, KMK
Does not deem it necessary to provide specific objections
To Plaintiffs' request.

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at Taft Road
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As you know and have known for some time, Magistrate Judge Hogan clarified that discovery was not stayed against KMK and E&Y at the 30 June 2004 Status Conference. Thus KMK has had two months to properly comply with the duly served subpoena, but has taken no action. KMK's position as of 24 June 2004 (the date of the objections and responses to the subpoena) is no longer the law of the case and has not been for two months.

As I indicated in our phone conversation, I need to know your position as soon as possible so that I can properly address PSLRA issues, if any, in my motion to compel. Again, thank you for your consideration in taking my call. Kindly let me know how you wish to proceed.

Sincerely,


Michael G. Brautigam

Attorney at Law
All Counsel by Fax



FAXED
9-1-04

LAW OFFICES OF GENE MESH AND ASSOCIATES

1 September 2004

By Fax 721 2139

Thomas W. Breidenstein, Esq.
BARRETT & WEBER
105 East Fourth Street, Suite 500
Cincinnati, OH 45202-4015

Re: OHSL

Dear Mr. Breidenstein:

I write to follow-up on our conversation of 31 August 2004 and my letter of the same date. I am close to completing my motion to compel to force KMK to comply with the subpoena, but I do need KMK's position on the PSLRA issue.

Simply stated, KMK's position that the PSLRA is triggered has been explicitly overruled by Magistrate Judge Hogan at the 30 June 2004 Status Conference and has not been the law of the case for more than two months. In fairness to KMK, however, I want to give KMK an opportunity to amend their position, but this must be balanced by the need to get the motion filed and heard before the discovery deadline of 29 October 2004. Would you kindly get back to me at your earliest convenience?

Your prompt attention to this matter is greatly appreciated.

Sincerely,



Michael G. Brautigam

cc: All Counsel by Fax

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September 2, 2004

Michael G. Brantigan, Esq.
Gene Mesh & Associates
2605 Burnet Avenue
Cincinnati, Ohio 45219

via fax @ 221-1097 and U.S. Mail

Re: Thiemann v. OHSU Financial Corp.
Case No. C-1-00-793-SSB-TSH

Dear Mr. Brantigan:

In response to your letter of August 31, 2004, we respectfully decline to withdraw or amend our objections to your subpoena.

Very truly yours,

BARRETT & WEBER



Thomas W. Breidenstein

cc: Patrick R. Freiler, Esq.
Michael R. Barrett, Esq.